

Board of Licensed Professional Counselors,
Marriage and Family Therapists and Substance Abuse Professionals
18 VAC 115-60-10 et seq.

FINAL REGULATION SUBMISSION PACKAGE

**REGULATIONS GOVERNING THE PRACTICE OF LICENSED
SUBSTANCE ABUSE TREATMENT PRACTITIONERS**

18 VAC 115-60-10 et seq.

**AGENCY CONTACT FOR OBTAINING COPIES OF THE
REGULATION:**

Name: Janet Delorme
Address: Department of Health Professions
6606 West Broad St., 4th Floor, Richmond, VA 23230-1717
Telephone: 804/662-9575
Cost: No charge

Board of Licensed Professional Counselors,
Marriage and Family Therapists and Substance Abuse Professionals
18 VAC 115-60-10 et seq.

FINAL REGULATION SUBMISSION PACKAGE

REGULATIONS GOVERNING THE PRACTICE OF LICENSED SUBSTANCE ABUSE TREATMENT PRACTITIONERS

18 VAC 115-60-10 et seq.

STATEMENT OF FINAL AGENCY ACTION

On November 19, 1999 the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals adopted final regulations 18 VAC 115-60-10 et seq., completing the promulgation of new regulations in compliance with a legislative mandate to develop requirements for the independent practice of licensed substance abuse treatment practitioners.

FINAL REGULATION SUBMISSION PACKAGE

REGULATIONS GOVERNING THE PRACTICE OF LICENSED SUBSTANCE ABUSE TREATMENT PRACTITIONERS

18 VAC 115-60-10 et seq.

EXPLANATION OF SUBSTANTIAL CHANGES

The Board corrected an error under 18 VAC 115-60-120, which left a gap in the renewal instructions for individuals whose licenses have lapsed more than one but less than four years. The Board amended subsection B to conform this regulation to the recently proposed fee changes for its other licensure categories, which provide for renewal with a penalty within one year of expiration, but require reinstatement after the one year has passed.

The Board has added a new form to help endorsement applicants document the hours of supervision received in another jurisdiction.

FINAL REGULATION SUBMISSION PACKAGE

REGULATIONS GOVERNING THE PRACTICE OF LICENSED SUBSTANCE ABUSE TREATMENT PRACTITIONERS

18 VAC 115-60-10 et seq.

SUMMARY OF PUBLIC COMMENT AND AGENCY RESPONSE

Proposed regulations were published in the Virginia Register of Regulations on August 16, 1999. Public comment was requested for a 60-day period ending October 15, 1999. A Public Hearing before the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals was held on August 26, 1999 at which the following comments were received:

Two persons commented that the endorsement requirements would restrict licensure as a substance abuse treatment practitioner for many people who are licensed professional counselors and also hold a specialty designation in substance abuse treatment because originally it was not required to have 60 hours of graduate work to qualify for LPC licensure. The proposed regulation would exclude those persons and force them to go back to graduate school in order to practice substance abuse treatment with a license.

***Board response:** The Board researched the database for licensed professional counselors holding the substance abuse specialty designation and found that there are only seven individuals who did not have 60 hours of graduate course work at the time of licensure. All of those individuals can continue to provide substance abuse treatment services under their professional counselor license. Should any of those individuals wish to apply for the substance abuse treatment practitioner license, the Board will consider the equivalency of their qualifications to the licensure requirements on a case-by-case basis, as authorized under §54.1-3508.*

The Virginia Association of Alcohol and Drug Abuse Counselors presented three comments: a) Education requirements should include at least 18 of the 60 hours in substance abuse specific courses; b) Regulations which allow broad categories of licensees with only two years of "experience" (not clear what type of experience) to serve as supervisors would mean that supervisors may have only minimal expertise in substance abuse treatment with less knowledge and understanding than their supervisees. A requirement for 100 hours of didactic education is not sufficient; regulations for certified substance abuse counselors (CSAC) require 400 hours. Supervisors should have a CSAC or some national certification in substance abuse treatment; and c) the regulation should specifically include the MAC as an option for examination requirement.

***Board response:** a) The board considered a range of semester hour requirements in the substance abuse competencies ranging from nine to*

eighteen semester hours. Although the professional associations argued for up to eighteen semester hours in substance-abuse specific education, representatives of Virginia's counseling programs argued that there was no possibility of offering more than nine semester hours in this specialty area. Initially, the board considered establishing different requirements for individuals who graduate several years beyond the effective date of the regulations to allow programs time to develop new coursework. This alternative was rejected on the advice of counsel that the board should not promulgate two different standards for the same license. The board also considered comment by the Virginia Addictions Technology Transfer Center that a consortium of graduate programs has been formed to develop distance learning opportunities in substance abuse that would be acceptable by all of those programs. The board was reluctant to base its proposal on the assumption that these efforts will succeed.

The board also rejected the nine semester hour requirement supported by counseling program representatives on the basis that three courses in substance abuse would provide insufficient preparation for a distinct area of expertise. As a compromise, board is proposing a requirement of twelve semester hours in the substance abuse competencies. To compensate for the shortfall in hours, the board opted to increase the proposed substance abuse-specific internship hours from 300 to 450 hours of the total 600 hours, and also raised the direct client contact hours from 120 to 200.

b) The board recognized the difficulty all licensure applicants experience in obtaining supervisors for the residency, and endeavored to develop a requirement that would provide flexibility for applicants without compromising the effectiveness of the training. The board proposes accepting supervision from any licensure category in clinical mental health, provided the supervisor can document specific training and experience in substance abuse treatment. The comment that 400 hours of didactic education is required for supervision of certified substance abuse counselors is not correct. Supervisors who are not certified as substance abuse counselors must document 100 hours of didactic education in substance abuse, and 1 year of work experience in the field.

c) The board is careful not to endorse a product of any specific vendor in its regulations. The board has issued a Request for Proposals to establish a licensure examination and expects the vendors which administer the MAC exam will bid on the proposal. The board will develop a list of examinations which it determines are "equivalent" to the board exam, which will be subject to change as more examinations are developed.

One person commented that a requirement for a licensee to practice within the competency for which he is qualified by training and experience is too broad. It may allow a licensee to practice beyond areas of substance abuse counseling and treat people with depression, phobias, etc. The scope of practice needs to be made more narrow.

Board response: *The scope of practice for this license is not established in regulation by the board, but is set forth in statute by action of the General Assembly. All standards of practice require that each licensee practice within his or her area of competency.*

One person commented that the Board should include advanced certification by the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse as an alternative to the MAC examination.

Board response: *As stated previously, The board does to endorse any product of any specific vendor in its regulations. The board has issued a Request for Proposals to establish a licensure examination and has invited the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse to bid on the proposal. The board will develop a list of examinations which it determines are "equivalent" to the board exam, which will be subject to change as more examinations are developed.*

Three persons proposed that endorsement or "grandfathering" should include persons with 60 graduate hours, a master's degree in social work, two years of post-masters experience in substance abuse treatment and a national certification or state certification in substance abuse.

One person presented in the comment his education, training and experience in substance abuse field as evidence of competency to be "grandfathered" for licensure. (*Commenter may be eligible for licensure by endorsement*).

One person requested that the Board "grandfather" those who have supervised candidates for certification in substance abuse in the past. There is a problem with over-regulation of mental health providers in the Commonwealth.

One person stated that the criteria should include credit for part-time substance abuse experience in an equivalency with full-time; a combination of a LPC license, a CSAC and the equivalent of five years of experience should qualify an applicant for licensure. The requirement for a master's degree in a "related field" and the type of experience acceptable are both unclear in the regulation.

One person asked the Board to consider "grandfathering" registered nurses, who are qualified by education, training and experience to provide substance abuse treatment and have certification in the substance abuse field.

The Virginia Association of Clinical Counselors made the following comments: a) it supports "grandfathering" for one year those who have made minimal efforts to meet requirements for licensure; b) it does not support continuing education units as substitutes for graduate credit hours; c) it supports more experience and documented supervision by a licensed mental health professional and completion of certain core courses if a person does not possess a master's degree; and d) it supports acceptance of the MAC examination as equivalent to a master's degree as an indication of competency to diagnose and treat mental health issues connected to substance abuse.

Board response: *The regulation as proposed does not have a “grandfathering” provision. The board has adopted a Pre-NOIRA to begin a new regulatory process for “grandfathering” individuals with equivalent education or experience. Comment will be solicited from individuals on the Board’s mailing list at the time proposed regulations are published.*

FINAL REGULATION SUBMISSION PACKAGE

REGULATIONS GOVERNING THE PRACTICE OF LICENSED SUBSTANCE ABUSE TREATMENT PRACTITIONERS

18 VAC 115-60-10 et seq.

STATEMENT OF BASIS, PURPOSE, ISSUES AND IMPACT

1. Basis of the Regulation:

Title 54.1, Chapter 24 and Chapter 35 of the *Code of Virginia* provide the basis for these regulations.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to assess fees, establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 35 establishes the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals and authorizes that board to administer the licensure of substance abuse treatment practitioners.

§54.1-103 authorizes the board to promulgate regulations specifying additional training or conditions for individuals seeking licensure by reciprocity or endorsement.

2. Statement of Purpose:

Chapter 901 of the 1997 Acts of the Assembly established licensure for the independent practice of substance abuse treatment and mandated that the board promulgate regulations for the qualifications, education and experience for licensure of substance abuse treatment practitioners. The mandate stipulates that the educational credit hour, clinical experience hour, and clinical supervision hour requirements not be less those required for professional counselor licensure. The new law authorizes the board to license individuals who have met substantially equivalent requirements to those promulgated in its regulations, and to license without examination licensed professional counselors who meet the clinical and academic requirements for substance abuse treatment practitioner licensure.

The board is proposing requirements for licensure that it has determined are the minimum requirements for the independent practice of substance abuse treatment that are necessary to protect the public health and safety. The proposed requirements will protect the public health and safety by ensuring the competency of practitioners who will be licensed to provide substance abuse services independently. The board is also proposing requirements for endorsement of individuals who have met substantially equivalent requirements to the education, experience, and examination requirements set forth in the proposed regulations. This will provide greater access to services by the public by expediting the licensure process for experience individuals which is in the best interest of the public health, safety and welfare.

The board is also proposing standards of conduct to ensure the integrity of licensed individuals and enable the board to take action for misconduct in violation of those standards in order to protect the public served by licensed substance abuse treatment practitioners.

Virginia law mandates that boards collect sufficient fees to cover the expenses incurred in operating the licensure program. The board is proposing a fee structure based on the budget projections for the next biennium calculated by the agency's Finance Office. The proposed fees will be in line with fee increases projected for the board's other master's level licensure categories which will be promulgated in the coming biennium to offset an existing deficit.

3. Summary of public comment

Prior to beginning work on the new regulations, the board's Regulatory Committee invited representatives of Virginia's professional associations in substance abuse and general counseling, and professors from Virginia's graduate programs in counseling to discuss issues concerning regulation of independent substance abuse treatment practitioners. Representatives of these associations and graduate programs attended all meetings of the Regulatory Committee and offered written and verbal comment at each meeting.

An issue that resulted in considerable controversy during the initial meeting and throughout the process was the interpretation of § 54.1-3508 which authorizes the board to issue a license to individuals with "substantially equivalent" qualifications, education, or experience to the requirements of § 54.1-3507. Some individuals felt strongly that the intent of the 1997 General Assembly was to provide for licensure of experienced certified substance abuse counselors, who may have no formal education beyond a high school diploma or G.E.D. Others argued that the General Assembly had clearly intended not to allow licensure for anyone with less than a master's degree, based on previous rejection of a 1996 bill which proposed a 3 tiered

licensure system for different levels of education. Representatives of the professional associations in substance abuse counseling admitted that their memberships were split on this issue. The board was advised by counsel that the language of the law gives the board discretion in determining what is “substantially equivalent” to a master’s degree.

The board adopted alternatives for licensing master’s level substance abuse treatment practitioners without examination, and spent considerable time trying to develop criteria that would ensure competency for independent practice for substance abuse counselors who do not hold a master’s degree. The board reviewed proposals submitted by the Virginia Association of Alcoholism and Drug Abuse Counselors and the Substance Abuse Counselor Alliance of Virginia, and drafted a combination of education and experience to propose for a time-limited basis. Upon review by counsel, the board was advised that statute does not authorize a time-limited provision, and that any equivalency proposal would have to be established as a permanent rule. The board concluded that only formal education could sufficiently ground a practitioner in the theory base of mental health counseling, and that experience alone could not substitute for this education. Therefore, the board rejected the alternative of providing for licensure for individuals with less than a master’s degree.

The board received comment on its draft degree program requirements from representatives of Virginia’s graduate counseling programs expressing concern that the programs, which are designed for general counseling, would not be able to meet the specific substance abuse training and faculty requirements as originally drafted. Based on this comment, the board redrafted its degree program requirements to ensure that education from these programs would be acceptable toward licensure.

The board also received comment that the education requirements promulgated for this license would have to prepare licensees to identify the comorbidity issues that commonly coexist with substance abuse. The board is proposing nine core areas in general counseling which it considers essential to train individuals to identify these problems and appropriately refer clients.

Representatives of professional associations in substance abuse treatment argued for rigorous semester hour requirements in substance-abuse specific education, but representatives of Virginia’s counseling programs argued that there was no possibility of offering more than nine semester hours in this specialty area. After careful consideration of many alternatives, the board adopted what it determined to be a workable compromise that will adequately protect the public, but allow individuals to obtain the training required for licensure.

The board originally drafted its residency content area requirements based on the twelve core functions in substance abuse counseling, but changed its proposal based on public comment that the federal Professional Practice Competencies are now accepted as the standard for the profession. The proposed regulation incorporates these competency areas as content areas required for the residency.

The board will continue to accept public comment after publication of this proposal and make any changes necessary to improve the clarity of these regulations.

4. Substance of the Regulations:

The key provisions of each regulation are summarized as follows:

A. Part I. General Provisions

18 VAC 114-60-10 incorporates definitions of words with meanings specific to the regulation that are not already defined in statute.

18 VAC 115-60-20 establishes fees for registration of supervision, application, license renewal and reinstatement, verification services, duplicate or replacement licenses and wall certificates, and penalty fees for late renewal and returned checks.

18 VAC 115-60-30 directs licensees who seek voluntary certification as sex offender treatment providers to apply for this certification under the regulations of the Board of Psychology.

B. Part II. Requirements for Licensure.

18 VAC 115-60-40 sets forth the requirements for licensure by examination and outlines the documentation required for application.

18 VAC 115-60-50 outlines the documentation required for application for licensure by endorsement.

18 VAC 115-60-60 establishes degree program requirements for licensure.

18 VAC 115-60-70 sets forth specific course work and internship requirements for licensure, including the semester hour and clock hour requirements for these requirements.

18 VAC 115-60-80 sets forth the residency requirement, including residency hours and content areas, establishes qualifications for individuals who can provide supervision to residents and outlines documentation required to register a supervisor with the board.

C. Part III. Examinations.

18 VAC 115-60-90 establishes an examination requirement and limits the time frame for taking the examination following board approval.

18 VAC 115-60-100 sets forth instructions for reexamination for candidates who fail the first attempt at the examination, and establishes an additional training requirement in areas of deficiency for individuals who fail the examination twice.

D. Part IV. Licensure Renewal; Reinstatement.

18 VAC 115-60-110 provides for annual licensure renewal, and establishes a change of address notification requirement.

18 VAC 115-60-120 establishes a reinstatement process for licenses that have lapsed up to one year, and a reapplication requirement for licenses which have lapsed more than one year.

E. Part V. Standards of Practice, Unprofessional Conduct, Disciplinary Actions, Reinstatement.

18 VAC 115-60-130 sets forth standards of professional conduct for licensed substance abuse treatment practitioners.

18 VAC 115-60-140 outlines violations that constitute grounds for disciplinary action or denial to issue or renew a license.

18 VAC 115-60-150 establishes a two-year delay for reapplication for any person whose license has been revoked or denied renewal by the board.

5. Issues of the Regulation.

A. Definitions

Certain terms that are not already defined in statute have specific meanings in the context of the regulation. Definitions of these terms will reduce the potential for confusion and ambiguous interpretation of the regulation.

Advantages: The definitions included in the proposed regulation provide clarity to applicants, supervisors, regulatory officials and the general public. Definitions are also valuable enforcement tools when scope of practice issues arise.

Disadvantages: Definitions in the proposed regulation present no disadvantages to the general public, applicants, licensees, the board or the Agency.

B. Proposed Fees

The board is mandated under § 54.1-113 to collect sufficient fees to cover expenses incurred in operating the licensure program. The *Code of Virginia* (§ 54.1-2400) provides statutory authority for establishment of fees for the administration and operation of the regulatory program. The board considered two alternative fee structures developed by the agency's Finance Office which were based on projected fee increases for the board's other licensing programs which will be necessary to meet the mandate under § 54.1-113 to revise fees as necessary to correct for budget deficits (attached).

Advantages: Assessing fees for licensure will enable the board to comply with statutory mandates to collect fees sufficient to meet expenses. The board has already expended funds to cover costs of staff time and committee meetings in developing the proposed regulation.

Disadvantages: As with any credential, obtaining a license to practice as an independent mental health professional will involve a personal financial expense to those individuals seeking licensure.

C. Sex Offender Treatment Provider Certification

Section 54.1-3505 of the *Code of Virginia* mandates that the board promulgate regulations for the voluntary certification of its licensees as sex offender treatment providers, and to consider the standards recommended by the Advisory Committee on Certified Practices pursuant to §54.1-3610. The board has considered those standards, which are now the Board of Psychology's *Regulations Governing the Certification of Sex Offender Treatment Providers*, and has determined that those standards are acceptable for the voluntary certification of its licensees. Following the advise of the Attorney General's Office, the board is proposing inclusion of this section to direct its licensees seeking certification to the Board of Psychology. This

section has recently been added to proposed regulations for the board's other licensure categories.

Advantages: Promulgation of a separate set of regulations that are either incongruous with or a duplication of the Board of Psychology's regulations would be a poor use of the board's time and budget, and confusing to the public. Endorsement of the existing regulations allows for one set of requirements and practice standards for all certificate holders.

Disadvantages: There is no disadvantage to the proposed regulation.

D. Application for licensure by examination

Because the board is charged with ensuring the competence of the individuals it licenses to practice substance abuse treatment independently, the regulations must establish a standardized, defensible application process and ensure that the documentation received is authentic.

Advantages: Setting forth the documentation requirements in regulation safeguards the integrity of the licensure process, and ensures that all applicants meet the same documentation standards.

Disadvantages: There are no disadvantages to the proposed requirements.

E. Pre-requisites for licensure by endorsement

Over the past two years, the board has included provisions in its existing regulations for licensure without examination for applicants with lengthy experience as licensed practitioners in other jurisdictions. The purpose is to reduce the time, expense and amount of documentation required for the application process for experienced applicants. The board proposes a provision for examination waiver for substance abuse treatment practitioners licensed in other jurisdictions by standards substantially equivalent to those established by the board.

Advantages: Endorsement of experienced practitioners will expedite the licensure process for these applicants by as many as 10 months, reducing delays in the ability to obtain employment, open private practices and bill for services.

Disadvantages: The proposed changes present no disadvantages to applicants, the agency, or the general public.

F. Degree program requirements.

A common denominator among all boards which license individuals for the independent practice of any mental health profession is that the graduate degree be obtained from an integrated, organized sequence of study which has a clear intent to prepare individuals to practice in that specific profession. In Virginia, there are no graduate programs which offer specific degrees in the substance abuse counseling specialty. Rather, students emphasize substance abuse counseling by the electives they choose in the graduate counseling programs. The board proposes a requirement which specifies that the graduate degree must prepare individuals to practice substance abuse treatment or a related *counseling* discipline as defined in the *Code of Virginia*. The proposed language mirrors proposed amendments to the board's regulations for professional counselor and marriage and family therapist licensure.

Advantages: The proposed program requirements outline in clear terms what the board expects applicants to document in terms of a graduate degree. The public will be protected by ensuring that individuals providing services have a strong foundation in mental health counseling.

Disadvantages: Individuals who do not have a graduate degree in substance abuse treatment or a related counseling discipline will not be able to apply for the license.

G. Coursework requirements.

The board is mandated under § 54.1-3605 (6) to promulgate regulations with equivalent educational credit hour requirements to those established in regulation for professional counselors. In compliance with this mandate, the board is proposing a total of 60 semester hours of graduate study.

The treatment of substance abuse is recognized as a “complex multidisciplinary practice... whose primary care givers have traditionally been counselors who...have been trained in specialty training programs often developed by treatment agencies rather than in academic institutions¹. The multidisciplinary nature of the profession, combined with the dearth of established graduate coursework specific to substance abuse was the primary issue the board faced when developing the coursework requirements

Public comment regarding underlying emotional problems that coexist with chemical dependency pointed to the necessity for a strong foundation in general

¹ *Addiction Counseling Competencies: The Knowledge, Skills And Attitudes of Professional Practice*. U.S. Dept. of Health and Human Services Technical Assistance Publication Series 21.

counseling. The board agreed that a foundation in general counseling is essential to prepare a practitioner to recognize coexisting disorders and appropriately refer clients. The board selected nine core areas in counseling which it determined are essential to enable practitioners to recognize a wide spectrum of emotional disorders, to understand the dynamics of cultural and family issues which impact mental disorders and treatment outcomes, and to understand the current research in substance abuse. These core areas were selected from recently updated core areas proposed for the board's regulations for professional counselor licensure. A recent survey conducted by the board established that these courses are readily available in Virginia's counseling programs (attached).

Public comment received from representatives of the substance abuse professional organizations demanded rigorous education requirements in the substance abuse-specific content areas. The board reviewed the curricula of the two graduate programs which are known for substance abuse training in Virginia, and found that neither currently offers more than nine substance abuse-specific semester hours. The Virginia Addictions Technology Transfer Center has reported that federal grant money has been allocated for the Center to develop distance learning opportunities in substance abuse counselors in collaboration with Virginia's graduate counseling programs, which are anticipated to be in place within one year. In addition, several programs responding to the board's survey indicated that there are plans underway to develop a course in substance abuse.

Board members felt strongly that no less than 15 semester hours would provide sufficient training to prepare individuals to practice in this specialty, but could not ignore the difficulty applicants would encounter trying to obtain this number of hours. Comment from the substance abuse associations indicated that professionals in the field are accustomed to having to get training in a variety of settings. As it stands, all applicants licensed by the board must go outside the graduate program in order to obtain the entire 60 graduate hours obtained for licensure.

The board determined that some compensation for a lack of coursework could be achieved by increasing the substance abuse-specific internship hours from 300 as originally drafted, to 450. For the substance abuse-specific coursework, the board is proposing a requirement of twelve graduate semester hours in the addiction counseling competency areas which have been developed by the Addiction Technology Transfer Center Program cited on page 8. Along with the 600 hour internship, which is equivalent to 6 semester hours, 15 semester hours of elective course work remain to meet the total 60 hours.

Advantages: The board determined that this combination of general counseling and substance abuse-specific course work is the minimum education requirement to ensure competency to provide substance abuse treatment to recognize other emotional problems and appropriately refer clients to specialists in other areas. Applicants will be better prepared to pass the licensure examination with a strong educational foundation in all core and competency areas.

Disadvantages: None of the graduate programs responding to the board's survey indicated that a specific course in each of the five competency areas is offered. However, the board determined that it would not be in compliance with the statutory mandate to ensure the competency of licensees without requiring education in all competency areas which have been established as a national standard. The proposed regulations provide that one course may satisfy more than one content area, but applicants will undoubtedly be required to obtain some of the substance abuse education outside the degree program. Applicants for any license under the board are required to obtain from twelve to thirty hours of coursework outside their degree programs, because no graduate program in Virginia requires sixty hours for a degree. The board constructed the language in the degree program requirements to permit applicants to obtain the substance abuse competencies outside the degree program. As a rule, graduates must obtain an additional 12 to 15 hours beyond the degree to attain the 60 hour requirement.

H. Residency

Statute mandates that experience hour requirements be equivalent to those for professional counselor licensure. In compliance with this mandate, the board is proposing a 4000 hour supervised residency with 200 hours of face-to-face supervision. The board considered that most treatment centers would not have substance abuse clients exclusively, and has therefore proposed that half of the residency hours be specific to substance abuse problems. As with its other proposed regulations, the board has included a provision to accept graduate internship hours meeting certain criteria toward the residency.

The board identified a need to ensure that residents are evaluated in all competency areas in substance abuse. The board proposes a requirement that the competency areas published as *Professional Practice Dimensions* in the federal publication cited on page 8 be included in the residency.

The board recognized the difficulty all licensure applicants experience in obtaining supervisors for the residency, and endeavored to develop a requirement that would provide flexibility for applicants without compromising the effectiveness of the training. The board proposes accepting supervision from any licensure category in

clinical mental health, provided the supervisor can document specific training and experience in substance abuse treatment.

Advantages: Licensure for substance abuse treatment practitioners was established by the 1997 General Assembly on the basis that treatment modalities for this type of practice are distinct from those used by other mental health service providers. The training and experience requirements set forth in the regulation will ensure that individuals licensed to practice substance abuse treatment independently possess training and experience in areas identified as unique to this profession.

The public will benefit from having the assurance that an individual holding himself out as a licensed substance abuse treatment practitioner has received specialized education and training to provide these services.

Government agencies will benefit from the ability to more accurately identify practitioners who can provide these services independently.

Disadvantages: Individuals who wish to hold themselves out as substance abuse treatment practitioners will be required to obtain the education and experience set forth in the regulations and pay the registration, application and renewal fees to obtain and maintain the license. This process will be simplified and less costly for individuals who can meet the endorsement criteria in the regulation. The law does not restrict other licensed mental health service providers from continuing to provide services in their areas of competency to substance abusers.

These regulations will present no disadvantages to the consuming public or to government agencies, whose employees are exempt from the licensure requirement under §54.1-3501.

I. Examination Requirements.

Attainment of a professional license is generally contingent upon passing an examination which test the applicant's applied knowledge and skills in a profession. The examination is an essential tool for evaluating the competency of an individual to practice in a profession, and to test understanding of the laws and standards of ethics that govern the profession.

The board determined that individuals licensed to practice substance abuse treatment independently should be tested for practice knowledge and skills, and the laws and standards of conduct governing the profession. The board is proposing a waiver of the examination requirement for individuals who are licensed as substance abuse treatment practitioners, in other states, or as mental

health therapists with national certification in substance abuse treatment. Statute provides for licensure without examination for current licensed professional counselors who can meet the board's requirements for licensure under these regulations.

Advantages: The examination will assist the board in determining that the individuals granted licensure to practice independently are competent to practice and understand the ethical and legal issues involved in that practice.

The public will benefit from having greater assurance that practitioners who obtained the license were tested for competency.

Licensed practitioners will benefit from the knowledge of laws and regulations governing their profession, and may avoid disciplinary action through this awareness.

Disadvantages: Applicants who do not qualify for endorsement will be required to pay a fee directly to the examination service to sit for the examination. It is expected that the examination fee assessed by the chosen vendor will range from \$75.00 - \$125.00.

Employers in the public and private sector may incur costs if they choose to reimburse employees for expenses involved in the licensure process.

J. Reexamination

Failure of the examination more than once provides an indication that the applicant may be deficient in one or more competency area. After many repeated attempts at an examination, an applicant may succeed more due to familiarity with the questions than due to improved competency. The board proposes that applicants who fail the examination twice obtain 45 clock hours of additional training or education addressing the areas of deficiency identified by the examination. Determination of acceptable training will be made on a case-by-case basis by having the applicant submit a plan for obtaining the hours to the board.

Without a time-limit for passing the licensure examination, the board would be obligated to keep an application file open indefinitely. The Archiving and Retention Schedule of the Virginia State Library and Archives allows for destruction of inactive licensure applications after three years.

Advantages: The requirement for additional training will protect the public by ensuring competency in areas of deficiency. The time limit for taking the

examination will ensure that the board is not forced to license applicants who have not been active in the profession, and who may no longer meet current requirements.

Disadvantages: Applicants may incur some costs to obtain additional training in areas of deficiency. Applicants who do not take the exam, and allow their files to become inactive will be required to pay a reapplication fee.

K. Renewal and reinstatement of a license

The board is mandated to collect fees to cover all expenses incurred in the administration of the regulatory program. The bulk of the board's expenses are covered by renewal fees.

Advantages: The proposed renewal fees are in line with the necessary increases for all the board's licensure fees as projected by the agency's Finance Office to offset an existing budget deficit. The board has initiated the regulatory process to increase renewal fees for its professional counselor and marriage and family therapist licensure.

The board is proposing a reapplication requirement for individuals whose licenses have lapsed more than one year. This requirement will allow the board to ensure that individuals who have not been providing services for a significant length of time are knowledgeable of new theories and techniques, and of current laws and regulations governing their practice. It will also enable the board to ensure that these applicants have not been disciplined for misconduct under another license or certificate. The public will benefit from this insurance of the continued competency and integrity of their providers.

Disadvantages: Individuals who allow their licenses to lapse more than four years will have to reapply under the board's current regulation and take the current examination. An individual who has become licensed in another state may apply for licensure by endorsement and will not have to take an examination.

L. Standards of Practice

State law requires that the board establish regulations that include provisions for disciplinary action. Standards of practice provide the basis for disciplinary action for misconduct, and provide guidelines for professional behavior in the provision of services.

Advantages: Standards of Practice provide practitioners with a framework for professional conduct, and provide the basis for board action against unscrupulous or unqualified providers, thereby protecting the public. The proposed standards mirror those proposed in the boards proposed regulations for professional counselor licensure.

Disadvantages: The proposed Standards of Practice present no disadvantage to practitioners, clients, state or private facilitates, or the general public.

6. Estimated Fiscal Impact

A. Projected number of persons affected and their cost of compliance:

It is estimated that 500 individuals will apply for this license soon after the effective date of the regulations. After the initial licensure period, it is estimated that the number of applicants will average 50 per year. Those applying will pay a \$100.00 application fee to the board. Individuals who do not qualify for endorsement will pay an examination fee of approximately \$ 75.00 - \$125.00 to an outside vendor. Each year, all licensees will pay a \$80.00 licensure renewal fee.

B. Costs to the agency for implementation:

Establishment of the licensure program will result in increased expenditures for data processing, contractual services (production and mailing of application packages, notices and amended regulations), personal services (board credentials reviews and hearings, discipline hearings, regulatory review), and enforcement with associated administrative proceedings.

The following projected expenditure impact was prepared by the Department of Health Professions' Finance Office:

	<u>FY99</u>	<u>FY2000</u>	<u>FY2001</u>	<u>FY2002</u>
Data Processing	5,000	10,000	10,000	8,000
Admin & Finance	0	2,500	3,000	3,200
Human Resources	0	700	800	850
Enforcement	0	500	1,500	1,800
Admin Proceedings	0	200	500	500
Attorney General	1,000	800	800	800
Bd of Health Professions	0	400	500	550
Personal Services	14,000	19,000	20,000	21,000
Contractual Services	8,000	4,500	5,000	5,500

Board of Licensed Professional Counselors,
Marriage and Family Therapists and Substance Abuse Professionals
18 VAC 115-60-10 et seq.

Supplies	500	500	500	500
Continuous Charges	500	700	900	1,000
Equipment	<u>0</u>	<u>100</u>	<u>100</u>	<u>100</u>
TOTAL	29,000	39,900	43,600	43,800
 BIENNIUM TOTAL		68,900		87,400

All costs to the agency are derived from fees paid by licensed substance abuse treatment practitioners.

C. Cost to local governments:

Community service boards that have a policy to cover the costs of professional licensure for their employees may incur additional expenses for employees that wish to become licensed as substance abuse treatment practitioners. Since individuals in government settings are exempted by law from the licensure requirement, there would be little impetus for an agency to adopt this kind of policy.

C. Economic Impact Analysis

The analysis prepared by the Department of Planning and Budget was published with the proposed regulation.

D. Agency Response

The Agency concurs with the analysis prepared by the Department of Planning and Budget.

Board of Licensed Professional Counselors,
Marriage and Family Therapists and Substance Abuse Professionals
18 VAC 115-60-10 et seq.

FINAL REGULATION SUBMISSION PACKAGE

**REGULATIONS GOVERNING THE PRACTICE OF LICENSED
SUBSTANCE ABUSE TREATMENT PRACTITIONERS**

18 VAC 115-60-10 et seq.

TEXT OF THE REGULATION

Board of Licensed Professional Counselors,
Marriage and Family Therapists and Substance Abuse Professionals
18 VAC 115-60-10 et seq.